

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	
	:	
ED'S BEANS, INC., D/B/A	:	Bankruptcy Case No. 20-22974-CMB
CRAZY MOCHA,	:	
CRAZY MOCHA COFFEE, CRAZY	:	
MOCHA COFFEE COMPANY,	:	
KIVA HAN, KIVA HAN COFFEE,	:	
KH AND KHC,	:	
	:	
Debtor.	:	Chapter 11
	:	
	:	Docket No. ____
ELLSWORTH CENTER COMPANY,	:	
	:	Related Docket Nos.: 396
Movant,	:	
	:	
v.	:	
	:	Hearing Date: May 12, 2021
ED's BEANS, INC., aka KIVA HAN	:	
COFFEE, aka CRAZY MOCHA,	:	Response Date: May 3, 2021
	:	
Respondent.	:	

LIMITED OBJECTION TO MOTION FOR RELIEF FROM STAY

Ed's Beans, Inc. d/b/a Crazy Mocha, Crazy Mocha Coffee, Crazy Mocha Coffee Company, Kiva Han, Kiva Han Coffee, KH, and KHC (the "**Debtor**"), hereby files this Limited Objection to the Motion for Relief from Stay (the "**Limited Objection**") respectfully representing as follows:

THE DEBTOR

1. On October 19, 2020 (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under, Title 11, Chapter 11, Subchapter V, of the United States Code, 11 U.S.C. § 101, *et seq.* (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Western District of Pennsylvania (the "**Bankruptcy Court**") at the above-captioned case number (the "**Bankruptcy Case**").

2. On October 20, 2020, the United States Trustee filed a Notice of Appointment of William G. Krieger as the Subchapter V Trustee.
3. The Debtor is a Pennsylvania corporation, organized and existing under the laws of Pennsylvania, with an address of 711 Thomson Park Drive, Cranberry Township, PA 16066. The Debtor continues to operate its businesses and manage its property as a debtor-in-possession under Section 1184 of the Bankruptcy Code.

BACKGROUND

4. In 1993, the Debtor began doing business as Kiva Han Coffee, a coffee wholesale, distributor, and roaster. The Debtor supplied coffee to many businesses, including Crazy Mocha, a local Pittsburgh chain of coffee shops. In 2018, the Debtor purchased all the assets of Crazy Mocha and begin operating the Crazy Mocha coffee chain.
5. Currently, the Debtor is the owner and operator of Crazy Mocha, which has locations throughout Allegheny, Beaver, and Westmoreland Counties in Pennsylvania, with a concentration in the downtown Pittsburgh and the surrounding areas.
6. Crazy Mocha offers customers a variety of coffee drinks and other specialty drinks, along with pastries, snacks, and related food items (the “**Crazy Mocha Business**”).
7. The Debtor also continues to operate Kiva Han Coffee, a roaster and wholesaler of coffee beans and various other products, including tea, specialty drinks, café supplies and equipment (the “**Kiva Han Business**”).
8. The Debtor is party to several leases for real estate out of which it operates its Crazy Mocha and Kiva Han Coffee businesses. One of those leases is the lease between the Debtor and the Ellsworth Center Company (“**Ellsworth**”).

9. On or about February 29, 2000, 225 Ross Street, L.P (“**225 Ross**”) and Murman O’Hara Company, d/b/a Crazy Mocha Coffee Company (“**Murman**”) entered into a Lease Agreement, as amended and modified, whereby Murman agreed to lease a portion of the premises located at 5830 Ellsworth Avenue, Pittsburgh, PA (the “**Premises**”) from 225 Ross for use as a coffee shop (the “**Lease**”).
10. Subsequent to the Lease, 225 Ross assigned its interest in the Lease to Ellsworth, and Murman assigned its interest in the Leases to the Debtor.
11. Due to the unprecedented events caused by the COVID-19 Pandemic, the Debtor was forced to close all its operations in March of 2020, including the Crazy Mocha coffee shop located on the Premises.
12. On April 16, 2021, Ellsworth filed the Motion for Relief Stay [Doc. No. 396] (the “**Motion for Relief**”) seeking relief from the automatic stay so that Ellsworth can pursue its rights and remedies with respect to the Premises, including termination of the Lease.
13. On April 26, 2021, the Debtor filed its First Omnibus Motion to Reject Certain Unexpired Leases of Nonresidential Real Property Pursuant to 11 U.S.C. § 365 *Nunc Pro Tunc* to Date of Filing Motion [Dkt. 421] (the “**Motion to Reject**”). The Lease is among those the Debtor seeks to reject in the Motion to Reject. A hearing on the Motion to Reject is scheduled for May 26, 2021.

LIMITED OBJECTION

14. The Debtor does not generally oppose the Motion for Relief.
15. In fact, the Debtor seeks to reject the Lease by way of the Motion to Reject.

16. The Debtor requests that any order granting the Motion for Relief include language allowing the Debtor and/or its secured creditor, First Commonwealth Bank, reasonable access to the Premises to remove all the Debtor's personal property.
17. Further, the Debtor objects to the extent the order permits Ellsworth to take action to collect rent or other sums due from the Debtor.

WHEREFORE, the Debtor requests that the Motion for Relief from Stay be Denied.

LEECH TISHMAN FUSCALDO & LAMPL, LLC

Date: May 3, 2021

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